

BOARD OF APPEALS CASE NO. 5306

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BEFORE THE

APPLICANT: Frank & Patricia Henderson

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ZONING HEARING EXAMINER

**REQUEST: Variance to construct an addition
within the required rear yard setback;
3982 Old Federal Hill Road; Jarrettsville**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 11/6/02 & 11/13/02

Record: 11/8/02 & 11/15/02

HEARING DATE: December 30, 2002

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Frank and Patricia Henderson, Jr., are requesting a variance, pursuant to Section 267-34C, Table II, of the Harford County Code, to construct an addition within the required 50 foot rear yard setback (34 feet proposed) in an AG/Agricultural District.

The subject parcel is located at 3982 Old Federal Hill Road, Jarrettsville, Maryland 21084 and is more particularly identified on Tax Map 24, Grid 3C, Parcel 279, Lot 2. The parcel consists of 1.45 acres, is zoned AG/Agricultural and is entirely within the Fourth Election District.

The Applicant, Mr. Frank Henderson, Jr., appeared and testified that he and his wife propose to add a room to the side of their home. The lot is a panhandle configuration and the actual location of the deck, although considered to the rear of the home, is actually to the useable side of their house. But for the configuration of the lot as a panhandle, this side would be the side yard not the rear yard and the setback requirement would only be 20 feet and no variance would be needed. There is an area where the room could be built without requiring a variance but there is a severe slope in that area that would require the addition to be two story instead of to the proposed one story. This would, according to the Applicant, represent a financial hardship. The closest residence to the proposed addition is over 100 feet away and the witness did not feel his addition would impact his neighbor at all.

Case No. 5306 – Frank & Patricia Henderson

Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning. Mr. McClune testified that the subject lot and placement of house is unique. The lot is a panhandle and that side of the residence currently used as the side yard is, by Code definition, the rear yard. It is the configuration that changes the setback requirement of the addition. McClune opined that approval would have no adverse impacts; that the proposal was consistent with other similar additions found in this neighborhood and throughout Harford County; that the approval was consistent with good planning and zoning principles and practices. The Department of Planning and Zoning recommends approval of the request.

There were no persons that appeared in opposition to the request.

CONCLUSION:

The Applicants, Frank & Patricia Henderson, are requesting a variance, pursuant to Section 267-34C, Table II, of the Harford County Code, to construct an addition within the required 50-foot rear yard setback (34 feet proposed) in an AG/Agricultural District.

Harford County Code Section 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Hearing Examiner agrees with the conclusions of both the Applicant and the Department of Planning and Zoning. The parcel is uniquely configured and the proposed location of the addition is the only practical location on the parcel. Requiring the Applicants to move this to the sloped area of the parcel would only result in financial hardship that is unnecessary. The addition is consistent with other similar additions found in this neighborhood and throughout Harford County and should have no adverse impact to adjoining properties or impair the purposes of the Zoning Code.

Case No. 5306 – Frank & Patricia Henderson

The Hearing Examiner recommends approval of the request, subject to the condition that the Applicants obtain any and all necessary permits and inspections.

Date JANUARY 27, 2003

William F. Casey
Zoning Hearing Examiner